

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 13TH JULY 2007 / 22ND ASHADHA 1929

WP(C).No. 34411 of 2006(V)

PETITIONER:

C.V.MOHANKUMAR, C/O. C.R.VINCENT,
CHERUKUNNATH PUTHENMADOM, KORATTY EAST P.O.,
THRISSUR DISTRICT.

BY ADV. SRI.P.I.DAVIS

RESPONDENTS:

1. ALPHONSA DEVASSY, W/O. MAYPPAN DEVASSY,
MYPPAN HOUSE, NALUKETTU, KORATTY P.O.,
THRISSUR DISTRICT.
2. CARBORUNDUM UNIVERSAL LTD.,
POST BAG NO.3, KORATTY - 680 306,
THRISSUR DIST., REPRESENTED BY ITS
GENERAL MANAGER.
3. INDUSTRIAL TRIBUNAL,
PALAKKAD.
4. DISTRICT LABOUR OFFICER,
THRISSUR.

BY ADV. SRI.A.M.SHAFFIQUE
SRI.E.K.NANDAKUMAR
SRI.A.K.JAYASANKAR NAMBIAR
SRI.K.JOHN MATHAI
SRI.P.BENNY THOMAS
SMT.C.B.SUMA DEVI
SRI.T.K.RAJESHKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 13/07/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

W.P.(C)NO.34411/06

PETITIONER'S EXHIBITS

- EXT.P1: TRUE COPY OF SHOW CAUSE NOTICE DATED 16.11.06 ISSUED BY 4TH RESPONDENT.
- EXT.P2: TRUE COPY OF APPLICATION SUBMITTED BY 1ST RESPONDENT.
- EXT.P3: TRUE COPY OF AWARD PASSED BY THE INDUSTRIAL TRIBUNAL, PALAKKAD.
- EXT.P4: TRUE COPY OF JUDGMENT IN O.P.NO.26863/01 HIGH COURT OF KERALA, DATED 21.3.06.
- EXT.P5: TRUE COPY OF FRONT AND BACK PORTION OF COVER.

TRUE COPY

PA TO JUDGE.

S. SIRI JAGAN, J.

W.P.(C)NO.34411 OF 2006

DATED THIS THE 13th DAY OF JULY, 2007

JUDGMENT

The petitioner is the management in I.D.No.14/06 before the Industrial Tribunal, Palakkad. He is challenging Ext.P3 award passed by the Tribunal in that I.D. Ext.P3 is an exparte award. The petitioner's contention is that no notice was served on him in the I.D. From the award, it is seen that notice addressed to him was returned 'unclaimed' and therefore, the petitioner was declared ex parte. The contention of the petitioner is that as is evident from Ext.P3 award, the petitioner's address is shown c/o the 2nd respondent and that is why the petitioner could not claim the notice.

2. Notice in this writ petition has been served on the 1st respondent, workman. However, there is no appearance for her.

3. From the averments in the writ petition, I am satisfied that the petitioner should be given another opportunity to contest the matter on merits since it is evident that the petitioner could not receive notice not because of any fault on his part. However, this shall be only on terms in so far as the 1st respondent is not in way of responsible for the factual situation. In the above circumstances, I quash Ext.P3 and direct the Industrial Tribunal to re adjudicate the

dispute after affording an opportunity to both sides to adduce evidence. This shall be only on condition that the petitioner pays an amount of Rs.2,000/- to the 1st respondent as cost. The petitioner shall produce the certified copy of this judgment along with proof of payment of the costs before the Industrial Tribunal, on receipt of which only the Tribunal need continue adjudication of the dispute. If the petitioner does not pay cost as directed above, he would not be entitled to the benefits of this judgment and Ext.P3 award would stand confirmed.

This writ petition is disposed of as above.

S. SIRI JAGAN, JUDGE

Acd

